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COMMERCE FOR BIS (BROWN, DENYER AND CRISTOFARO)
NSC FOR LUTES
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ENDING FEBRUARY 12, 2010

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 1C. THE HAGUE 87

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SUMMARY

11. (SBU) The attention of the Technical Secretariat (TS) of the Organization for the Prohibition of Chemical Weapons (OPCW) and delegations turned this week to preparations for the Executive Council (EC-59) session of February 22-26. EC Chairman Lomonaco (Mexico) convened the advance consultation to discuss the agenda for EC-59 on February 10. A new battle is brewing over the Director-General's (DG) proposal to have the EC decide what it wants to see in a TS staffing report, following the UN General Assembly model. The South African Ambassador opposes the initiative, despite his delegation's efforts in the past to have the TS provide more data on staff composition in the annual report on tenure. Chairman Lomonaco has also drafted a discussion paper on creating greater transparency in procedures at the Conference of the States Parties, a move to broaden small back room negotiations which will doubtless spark lively new discussion.

12. (SBU) The weekly meeting of the Western European and Others Group (WEOG) February 9 also focused on the upcoming EC, as well as the controversial consultations on "situations not foreseen" by the Chemical Weapons Convention (CWC). Delreps continued to hear from other delegations on "situations not foreseen", with growing sympathy toward simplifying the entire exercise.

13. (SBU) The new British Ambassador hosted a meeting of the permanent members of the UN Security Council (P-5) on February 11. That group discussed its traditional topic of progress on universality, but addressed the EC-59 agenda and "situations not foreseen" as well. Visiting NSC Coordinator for WMD Gary Samore, in town for nuclear meetings, called on Director-General Pfirter on February 11 for a useful tour d'horizon. Details on all of these meetings follow.

14. (SBU) Delrep and the Algerian DCM met with OPCW staff on

February 11 to discuss the proposed conference on chemical safety and security to be held in Algiers later this spring.
(Reported in Ref C?)

SCENE-SETTER FOR EC-59

¶ 15. (SBU) The agenda for EC-59 is fairly lean, but that has not stopped active political agendas. On February 10, EC Chairman Jorge Lomonaco (Mexico) held the consultation on the agenda for the February 23-26 Executive Council session (EC-59), which introduced two new initiatives that may liven up the Council session.

¶ 16. (SBU) The Director-General (DG) himself inserted a new item on the agenda, "Composition of the Technical Secretariat," in response to questions raised at previous EC sessions about the information contained in the annual implementation report on the tenure policy. He stated that much of the information requested did not really relate to the tenure policy but rather more broadly to the composition of the TS staff. He had consulted the Pakistani Ambassador, who had worked on similar issues at the United Nations General Assembly, and was proposing that OPCW follow the UN model, with the EC instructing the TS as to the information Qmodel, with the EC instructing the TS as to the information it wished to be reported. South African Ambassador Goosen objected to the new agenda item, saying that the EC had discussed the issue in the past and it had been resolved. Pakistani Ambassador Chaudry stated the importance of reviewing all aspects of human resources management, including recruitment and appointment, and he supported the

DG's proposal. Several WEOG delegations spoke in favor of retaining this new agenda item and supported EC discussion of the staffing report. Goosen, out-maneuvered, announced that he would not join consensus and would not permit the agenda item to be included. Chairman Lomonaco stated that the Council itself would have to take up the matter.

¶ 17. (SBU) The second new topic arose under "Any Other Business" where Chairman Lomonaco plans to distribute an informal paper for discussion on improving transparency in procedures at the Conference of the States Parties. The paper is not yet out, but Lomonaco had provided a draft to Delreps in January (sent to ISN/CB, Ref B).

¶ 18. (SBU) Expected moves to promote as separate agenda items the two new consultations initiated during EC-58, the Chairman's discussion of post-2012 chemical weapons destruction and the facilitation on guidelines for "situations not foreseen" by the Convention, did not materialize during the February 10 meeting. The Chairman's deadline discussion is included in the annotated agenda under the usual sub-item on "Progress made in meeting revised deadlines for the destruction of chemical weapons." South African Ambassador Goosen requested similar status for the consultation on "situations not foreseen." Policy Making Organs Director Khodakov explained why the facilitation on "unforeseen situations" was not on the annotated agenda; Goosen reiterated his view that it should be on the agenda; and the German Ambassador proposed adding a sub-item on the issue. Delrep then suggested that the facilitator's report on that consultation follow the model of its introduction at EC-58 under the revised deadlines item, with the addition "and other destruction-related issues" as in October. All agreed.

¶ 19. (SBU) Iran can be expected to use the opportunity of the report on the deadlines consultation, as well as the 90-day progress reports on destruction, to blast the U.S. once again on not meeting the final deadline. Iran's new ambassador has not yet appeared at OPCW meetings, and whether he will shift their tactical approach remains to be seen. Iran or others might also propose new paths through the "situations not foreseen" morass. (Del Comment: We recommend keeping any discussion on both of these issues on the margins of the

official sessions to the extent possible. The Chairman will control the oral presentations in the Council, and, as he told his deadlines consultation, try to keep the discussion in that channel rather than in the EC itself. A parallel approach to "situations not foreseen" would be advisable at this stage. End Comment.)

¶10. (SBU) Russia has two destruction facilities, Maradykovsky and Leonidovka, with amendments to the verification plans and modifications to the corresponding facility agreements. Del has not learned of any other delegations questioning these changes, although European allies are studying them.

¶11. (SBU) The Technical Secretariat (TS) is still working on a draft paper on the continued verification of CW production facilities ten years after conversion. Ambassador Lohman (Netherlands) expects this to remain under discussion and not to be ready for EC action at this session (see below).

¶12. (SBU) The implementation reports for Articles X and XI were distributed quite late, and both facilitators are likely to defer these reports in order to hold discussions on them. Facilitator Mike Byers (Australia) for the Open-Ended Working Group on Terrorism noted that the TS paper on its activities related to terrorism was just out, and while he could squeeze in a consultation just before the EC, he thought it better to give delegations more time to digest the paper in order to have a full discussion.

¶13. (SBU) German Ambassador Burkart announced at the meeting on February 10 that his government had questions on the technical arrangements made with designated laboratories, which they would be addressing with the TS, but they might

have to defer the document on that subject if agreement cannot be reached. Burkart also raised the wider issue of the late distribution of documents, making it difficult for delegations to prepare properly for the EC meeting itself. PMO Director Khodakov expressed his "deep regret" but stated that late distribution was due to the late submission of many documents. He promised that most would be available, although some only in English, in the next few days.

WEOG ON EC-59 AND SITUATIONS NOT FORESEEN

¶14. (SBU) At its regular weekly meeting February 9, the Western European and Others Group (WEOG) discussed the upcoming Executive Council and the ongoing consultation on "situations not foreseen" by the Convention. German Ambassador Burkart announced that he had hosted a lunch for the ten EC members of the next Council beginning in May, and that "agreement is close" on designating a WEOG Chairman, but not yet final. French Delegate Raja Rabia volunteered to chair the Universality consultations to succeed Lee Litman (UK); WEOG Coordinator Ruth Surkau will raise Rabia's offer with other regional coordinators to see if there are other interested candidates. Surkau also reported on her meeting with new Industry Verification Branch Head Deva Hupaylo on possibly holding meetings to discuss the Secretariat's paper on Other Chemical Production Facilities (OCPF), and Sampling and Analysis during the week of the EC. Surkau also invited Hupaylo to meet with WEOG later in March, an invitation Hupaylo readily accepted.

¶15. (SBU) In introducing EC-59 for discussion, Surkau noted the number of documents that have not yet been distributed to delegations, including the latest Russian 90-day report. Several delegations commented on the continuing problem of documents circulated so close to the EC session that they must be deferred to the next session for discussion. Dutch Ambassador Pieter de Savornin Lohman raised the question from the year before on whether we even need four sessions of the Executive Council every year. Delrep repeated Washington's view that we should not reduce the number of Council sessions, but added that it may be time to address once again

the number of late documents.

¶16. (SBU) Lohman then briefed the group on the informal meetings he has been chairing on inspecting converted CW Production Facilities ten years after their conversion. He recently received a draft paper from the TS, which he described as "complicated," which he plans to discuss first with the "most interested parties" -- those with such facilities (UK, Russia, South Korea). Later he will hold a larger discussion of the paper, but said that the TS will not distribute the paper until at least the first of those discussions have taken place and comments received. Lohman did not believe the issue was ripe for this EC, but likely to be deferred to the next Council session in April.

¶17. (SBU) German Ambassador Werner Burkart raised the agenda item on technical arrangements between the TS and designated item on technical arrangements between the TS and designated laboratories, stating that his government questions the right of an inspected party to be present at the lab, and that the issue is of greater significance than "noting a note." French Delegate Rabia added that Paris has similar issues and that the matter is unlikely to be resolved at this Council.

¶18. (SBU) Delrep announced the meeting on the External Auditor's report recommendations on February 17 to be convened by Facilitator Nik Granger (U.S.), who was not present at the WEOG meeting. She also noted that the DG planned to defer the decision on Staff Rule 9.4.02 to allow the TS to draw up figures on the costs involved and to have the Advisory Body on Administrative and Financial Matters (ABAF) review it before the Council takes a decision, effectively deferring the matter until after the ABAF meeting in May.

¶19. (SBU) The ensuing discussion of "situations not foreseen" was far lengthier, as has been true of this issue over the past several weeks. Facilitator Michael Hurley (Ireland) stated that the previous week's discussion (Ref A) of the concept had led to a useful exchange, with a more free-flowing, constructive atmosphere than in previous meetings. Although there was "noting to show for the meeting", he felt it had turned in a better direction. Surkau played devil's advocate and asked whether guidelines are necessary, or whether this issue might be solved by a simpler formulation (perhaps report language) that a State Party finding chemical weapons in unusual circumstances should notify the OPCW as soon as possible.

¶20. (SBU) Several delegations spoke to the need to define the problem and decide what guidelines might (or might not) be appropriate (Italy, Netherlands, Germany). Burkart noted the "slippery slope" of codifying exemptions for unknown future situations. Rabia asserted that the confusion was born in the changed language between EC-57 about a specific past situation and EC-58, where it went from a conflict situation in a non-State Party to "conflict situations and otherwise." Hurley stated that the consultation is trying to decide "certain behaviors against which a breach of the Convention can be judged." Delrep stated that the U.S. did not see the destruction of CW in Iraq as before it entered the Convention as "breach" of the Convention, and that the confusion partly lies between those who still want to focus on the past and the orientation toward the future mandated for these consultations.

¶21. (SBU) New Canadian Delegate Whelan asked whether additional discussion in the Council would help when there is so much confusion about the purpose of the consultation, noting that even if "we might find ourselves with a delightfully different mandate," it might not help clarify the issue. Multiple delegations agreed that discussion should remain in the consultation, not in the Council, with several noting the problem of "just one" delegation pushing the entire effort. Hurley agreed that it would not be wise to take the issue back to the Council at this stage, but said he would meet with the "three original parties" to understand their intentions behind the mandate they drafted for EC-58.

Hurley does not plan to hold a larger meeting during EC-59 at this time.

¶22. (SBU) Under Any Other Business, French Delegate Rabia raised the recent survey sent to delegations from the OPCW budget office soliciting views on their performance. Delegations turned to former Budget Facilitator Martin Strub (Switzerland), who acknowledged that any questions on the budget had gone through the co-facilitators to the TS, but that delegations might have individual views on how satisfied they were with the responses. U.S. and New Zealand delegates said they had taken the survey at face value as an attempt to measure delegations' satisfaction with the budget office's service as a Key Performance Indicator. Although the questions might be better phrased, it was a model initiative that perhaps should be encouraged (including, Delrep noted, for delegations' level of satisfaction with document delivery from the PMO office).

WEOG EC CHAIR

¶23. (SBU) Following the lunch hosted by Burkart on February 4 to discuss WEOG's nomination for the next EC Chair (Ref A), French Ambassador Jean-Francois Blarel confirmed that Paris has given him the green light to accept the role. On behalf of WEOG, Burkart plans to announce WEOG's nomination of Blarel orally during EC-59 and then formally during EC-60 in April along with the other regional groups' nominations for the rest of the EC Bureau.

MORE BILATERAL VIEWS ON "SITUATIONS NOT FORESEEN"

¶24. (SBU) Russian Delegate Gavrilov told Delrep privately on February 10 that he is proposing to Moscow that this guidelines exercise be stopped. The Russian delegation would like to propose a simple paragraph for an EC decision or report language that would advise States Parties which discover chemical weapons in exceptional circumstances to report to the EC as soon as possible. Delrep replied that the U.S. could support that, but that she doubted South Africa would accept such a simple solution. (Del comment: A Russian initiative of this sort could be very helpful in putting this exercise on a reasonable track. End Comment.)

¶25. (SBU) Delreps also met with Italian Delegate Cornacchia on February 10 at his request. Cornacchia wanted to understand the U.S. position, which Delreps shared, and to discuss how to proceed with the facilitation. He agreed with Delreps that the focus should be limited to addressing discoveries of CW in non-States Parties during conflict situations. Cornacchia wants to support Hurley but noted the need to steer him back on course.

P-5

¶26. (SBU) UK Ambassador Paul Arkwright hosted the meeting of P-5 delegations on February 11 with universality the principal topic on the agenda. Arkwright noted French Delegate Rabia had volunteered to take over as universality facilitator from departed UK Delegate Litman, keeping leadership of the issue within the P-5. Chinese Ambassador Zhang Jun began a review of the status of outreach to each of the seven non-member states by raising North Korea. With attention focused on desperately trying to resume the Six-Party Talks, Zhang said it was premature to raise the issue of CW disarmament. Zhang went on to refute claims made in the Japanese media that China had conducted tests which found traces of chemical agents from air samples taken near the Chinese-North Korean border. He said the claims were groundless, and that China had not carried out any such tests.

¶127. (SBU) French Ambassador Blarel said that the seven non-member states should not be lumped together in the same basket, and he highlighted the need to target Angola both bilaterally and through the African Union to make joining the Convention a priority. Recently-arrived Russian Ambassador Roman Kolodkin agreed that Angola seems to be the most eligible non-member state to join and recommended working through the African regional group to push Angola. Blarel said that when Angola, or even Somalia, join, they will immediately be faced with the challenge of implementing the Convention. Kolodkin responded that he would prefer to have countries join first and then worry about implementing their obligations. Arkwright said that outreach to non-member states would be most effective if it included assurance of assistance from the Technical Secretariat and member states upon joining the OPCW. Zhang added the need to stress that assistance would not be limited to national implementation but also would include international cooperation and assistance.

¶128. (SBU) Blarel noted that Burmese participation in OPCW Q28. (SBU) Blarel noted that Burmese participation in OPCW events indicates some willingness to engage. North Korea and the three Middle Eastern non-members (Egypt, Israel and Syria) pose the biggest challenge. Delrep Beik raised the recent visits to Israel and Egypt by the DG's Special Envoy for Universality, Marc Vogelaar. No one else had heard about the visit but all agreed to Beik's suggestion that Rabia meet with Vogelaar and give an update on his activities at the next P-5 meeting.

¶129. (SBU) Arkwright then raised UN Security Council Resolution 1540, noting that the new Chairman of the 1540 Committee, Ambassador Claude Heller (Mexico), visited the OPCW recently and that 1540 includes obligations related to

chemical weapons for all UN members. Kolodkin suggested that the local P-5 consider expanding interaction between the OPCW and the UN on 1540. Although there previously had been strong resistance to even discussing 1540 in the OPCW, Beik said that the climate has changed since the Second Review Conference in April 2008. Noting the good, but cautious, work done on 1540 in The Hague, Beik said the time may be right to expand efforts. UK Delegate Karen Wolstenholme agreed that there has been some progress and that it would be good to seize the opportunity to move forward. All agreed to add 1540 to the agenda for the next meeting, which the U.S. Delegation will host in early June before EC-61.

¶130. (SBU) Under Any Other Business, discussion turned briefly to preparations for EC-59 and on-going consultations. Kolodkin raised "situations not foreseen," saying that agreement should be reached quickly on a simple, short decision. The others agreed with that approach. Blarel also suggested reducing the number of EC sessions annually from four to three, a proposal which has been gaining more traction among delegations in The Hague faced with a substantively lean agenda for EC-59. (Del comment: Since this issue of fewer EC sessions each year was raised in WEOG and then by Blarel himself, who will be taking up the chairmanship, there will likely be a more formal proposal soon, perhaps from the European Union. End Comment.)

¶131. (SBU) Zhang expressed concern that too many issues are left unresolved by the Executive Council and "drag on" to the annual Conference of the States Parties. He was particularly concerned at the lack of progress on targeting inspections for Other Chemical Production Facilities, and having it end up as a recurring fight over numbers in the OPCW Budget. He supported the DG's ideas on states monitoring their own industries, so that the OPCW inspections could focus more specifically (and, presumably, with fewer inspections in any one country). Others expressed agreement with improving efforts to make the consultations more productive and to resolve some of the outstanding industry issues, including OCPF site selection.

SAMORE MEETING WITH THE DG

¶132. (SBU) Visiting National Security Council WMD Coordinator Gary Samore called on Director-General Pfirter on February 11, taking time out from his meetings in preparation for the Nuclear Summit. OPCW Chief of Cabinet Richard Ekwall, INS/EX Deputy Director William Amoroso and Delrep Janet Beik sat in. Pfirter emphasized the importance of a new U.S. Ambassador to OPCW for continuing diplomacy leading up to the 2012 destruction deadline. Samore said he would look into the nomination for the new U.S. ambassador. Pfirter added that in addition to efforts in The Hague, demarches explaining the U.S. position might be helpful in capitals, particularly with countries such as India, China, Brazil, South Africa and other developing countries.

¶133. (SBU) Pfirter noted the differences between the Russian and U.S. approaches to missing the final destruction and U.S. approaches to missing the final destruction deadline, advising that, despite the American "obsession with transparency," formalizing the dates beyond 2012 would be best done closer to the deadline, when the projections are more accurate and "you will not be alone." Pfirter also stated that the "lull" after 2012 when the projections show no activity at all at U.S. facilities is more problematic for U.S. credibility than going beyond April 2012. Measures such as the Executive Council visits to the sites have demonstrated the U.S. (and Russian) commitment to total destruction, he said, and deepened understanding of the complex challenges involved.

¶134. (SBU) Pfirter outlined his efforts to bring the seven countries remaining outside the Convention into the fold. He said South Africa is working to bring Angola into the Convention; the Angolans have no reason not to join, they

just have not gotten around to it. Somalia is hopeless until there is some government there. The Burmese generals are worried about a challenge inspection from their neighbors as soon as they join, Pfirter said; unless they have "something to hide," that should not be an issue as no challenge inspections have yet occurred. Pfirter believes chemical weapons should be the easiest piece of the Middle East conundrum for Israel, Syria and Egypt, perhaps serving as a confidence building measure to tackle the more difficult issues. North Korea has greater issues, but chemical weapons should not be forgotten there.

¶135. (SBU) Pfirter officially requested that the U.S. pay its 2010 dues to the Organization in full and on time. Samore explained the increases the Obama administration has made in the budget for the State Department, but noted the structural problem for the U.S. in paying all of its assessments to international organizations. Samore praised the DG's sound management of the OPCW and all that he has done to leave the Organization in excellent shape for his successor.

¶136. (U) BEIK SENDS.
NOLAN